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PATENT
Serial No: 09/818,084
Docket No: 12832-100173

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Michael E. GRAVES, *et al*

Serial No: 09/818,084

Filed: March 26, 2001

For: AUTHENTICATED PAYMENT

Examiner: Jalatee WORJLOH

Art Unit: 2846

REPLY BRIEF

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

ATTENTION: Board of Patent Appeals and Interferences

Sir:

Appellants submit this Reply Brief in the response to the Examiner's answer mailed on August 1, 2006.

ARGUMENT

In the Appeal Brief, Appellants asserted that in Gifford, a client computer requests a purchase by constructing "a payment order" including a sender unique nonce, adding an authenticator, and sending it for approval to a payment computer, and that the sender unique nonce is used to protect against replay attacks. Additionally, Appellants pointed out that the purpose of cryptographic challenge in Bishop is to prevent replay attacks.

Appellants argue that Gifford solves the problem of replay attacks by including a nonce in a payment order which is checked to make sure the sender did not previously send a payment order with the same nonce, and that one of ordinary skill in the art would not graft onto the invention of Gifford sending a cryptographic challenge back to



the sender over the network, receiving a reply to the cryptographic challenge, and having to check the reply, as taught by Bishop, to solve the replay attack already solved by the much simpler Gifford nonce.

In the Examiner's Answer, the Examiner responds to Appellants arguments by indicating that "Notice, whether or not the problem was previously solved is irrelevant." Examiner's Answer, page 8. The Examiner is ignoring the issue of motivation by failing to consider that one of ordinary skill in the art would not be motivated to add a complicated procedure onto the method of Gifford to solve a problem of replay attacks that Gifford has already solved with the much simpler use of a nonce.

The Examiner's Answer further asserts "If, as asserted by Appellants, the problem was already solved, it only provides additional support that Appellants' limitation are obvious." The Examiner is again ignoring that the primary reference teaches a simple way to protect against the replay attack with the use of a nonce, and all that Gifford requires is that the nonce be checked to make sure it is not repeated. The Examiner asserts that somehow it would be obvious to graft the cryptographic challenge and response of Bishop onto the method of Gifford, to protect the server from replay attacks, something already done by Gifford. The Examiner asserts that the applied references all recognize the need for security in electronic payment systems, but fails to point out how the asserted modification would in any way "improve security" for the methods of Gifford. The Examiner's combination is thus made with impermissible hindsight reconstruction of the claimed invention.

Further, Appellants asserted in the Appeal Brief that the applied references do not disclose or suggest "the challenge request including a summary of the payment transaction to be displayed to the buyer and then digitally signed by the buyer..." as required by the claims. For the first time in the Examiner's answer, the Examiner puts forward a new interpretation of the claim recitation "the challenge request including a summary of the payment transaction to be displayed to the buyer..." to mean "asking for approval for transaction", apparently because the references do not include a "summary



of the payment transaction” as required by the claims. This strained interpretation of the claim language is improperly attempting to read the recitation “summary of the payment transaction to be displayed to the buyer” right out of the claims. Getting approval of a payment transaction does not inherently include displaying a summary of the payment transaction to the buyer. As an example of a summary of the payment transaction displayed to the buyer, refer to Fig. 7A and 7B showing a summary, which may include a description of a purchased item, a price, a tax and a total amount, billing and shipping addresses, etc. Shwartz merely discloses presenting a window on a display asking for approval of a transaction, and there is no disclosure of a summary of the transaction being displayed.

For at least the above reasons, it is submitted that claims 35, 37-42, 44-49 and 51-55 would not have been obvious over the applied references. Reversal of the rejections is requested.

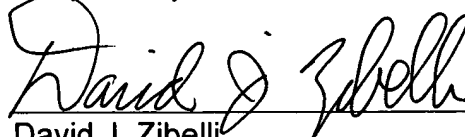
CONCLUSION

Applicants respectfully requests reversal of the rejections of claims 35-55. These claims are allowable over the cited art.

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Respectfully submitted,



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